

I have specialized in civil rights and employment discrimination litigation. Approximately 90 percent of my practice has been devoted to the litigation of civil rights cases. I have litigated civil rights cases in both state and federal court through trial and in appellate courts at all levels *e.g.*, *Burnside v. Simpson Paper*, 66 Wn.App. 510, 832 P.2d 537 aff'd, 123 Wn.2d 93 (1994)(age discrimination and handbook claim); *Lucas v. J.C. Penny*, Western District of Washington, #C93-1804C (1996)(race harassment and negligent infliction of emotional distress - affirmed by the Ninth Circuit, unpublished); *Redmon v. Air Industries Corporation*, Western District of Washington, #C95-482WD (1997) (Whistleblower, wrongful discharge); *Woods v. Graphic Communications Union*, 925 F.2d 1195 (9th Cir. 1991)(racially hostile work environment, outrage, failure of duty of fair representation, punitive damages awarded); *Wollert v. Rent A Center*, King County Cause No. 91-2-16364-2 (retaliation under state and federal law for assisting in a race discrimination claim - Section 1981 punitive damages awarded); *McGinnis v. Kentucky Fried Chicken*, 42 F.3rd 1273 (9th Cir. 1994)(disability discrimination, punitive damages awarded); *McAllister v. City of Seattle*, King County Cause No. 94-2-26770-1 (1998)(Section 1983 - false arrest); *Altshuler v. City of Seattle*, 63 Wn.App. 389, 819 P.2d 393 (1991)(Qualified immunity under Section 1983); *Ude v. Diamond Parking*, King County Cause No. 95-2-18888-5 SEA (1998) (failure to promote on basis of race Section 1981 - punitive damages awarded); *Rendish v. City of Tacoma, et al*, C96-5780RJB, May, 1999)(Retaliation - First Amendment (*Monell*) and RCW 49.60); *Swinton v. U.S. Matt Corp.*, 270 F.3d 794 (9th Cir. 2001)(Section 1981 - racially hostile work environment - punitive damages awarded).

4. I am presently on the Board of Directors of the Washington Employment Lawyers Association (WELA) and the Chair of the WELA Amicus Committee since 1998; member of the ACLU Legal Committee since 1983; member of the National Employment Lawyers Association

Declaration of Jeffrey Needle In support of Reasonable Attorney fees and Expenses - 2
Bonner v. City of Normandy Park, et al. No. C07-0962 RSM

JEFFREY L. NEEDLE
Attorney at Law
200 Maynard Building
119 First Avenue South
Seattle, Washington 98104
(206) 447-1560 fax (206) 447-1523

(NELA) Amicus Committee; Member of the American Association of Justice (formerly ATLA) amicus committee and Co-State Coordinator for Public Justice (formerly TLPJ). I have written dozens of amicus briefs in both state and federal court; including the United States Supreme Court: *Collins v. Harker Heights, Tex.*, 503 U.S. 115, 112 S.Ct. 1061, 117 L.Ed.2d 261 (1992)(Amicus for ATLA - deliberate indifference standard, Section 1983); *Kolstad v. American Dental Association*, 527 U.S. 526, 119 S.Ct. 2118, 144 L.Ed.2d 494 (1999)(Amicus for ATLA - standard for punitive damages is a Title VII case); *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 23 S.Ct. 2148, 156 L.Ed.2d 84 (2003)(Amicus for ATLA - direct evidence not required for mixed motive jury instruction); *EEOC v. BCI Coca Cola*, (2006)(Amicus for ATLA - Petition dismissed pending oral argument)(Cat's paw defense to vicarious liability); *Chavez v. Martinez*, 538 U.S. 760, 123 S.Ct. 1994, 155 L.Ed.2d 984 (2003) (Amicus for ATLA - qualified immunity under Section 1983).

5. I have been on the Board of Governors of the Association of Trial Lawyers of American (ATLA) from 1993 until 1997. I am past Chairman of ATLA's Civil Rights Section and continue on its Executive Committee. I am past Chair of ATLA's Employment Rights Section - approximately 1200 members - and continue on its Executive Committee. I am past Chair of ATLA's Section Leaders' Council, and served on the Legal Affairs and Constitutional Litigation committees. I was the Chairman of the Civil Rights Section of the Washington State Trial Lawyers Association (WSTLA) from 1986 to 1992. I have served on additional committees too numerous to mention.

6. I have published approximately 40 columns and articles on various civil rights issues in the *Trial News*, a publication of the Washington State Trial Lawyers Association. I have also written civil rights related book reviews and articles on punitive damages and qualified immunity in civil rights cases for *Trial Magazine*, the publication of ATLA. My most recent publication for *Trial Magazine*

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1
2 in June, 2008 is entitled "Defeat the Cat's Paw Defense to Vicarious Liability."

3
4 7. I have been a speaker at numerous continuing legal education seminars on a number of
5 different civil rights related topics. Within the last year I have spoken at seminars sponsored by the
6 National Employment Lawyers Association and Washington Employment Lawyers Association. I was
7 invited to speak at a seminar sponsored by the American Bar Association last October, but was unable
8 to do so because of schedule conflict.

9
10 8. The fee agreement with my client was a contingency type fee agreement. I have received
11 no compensation of any kind whatsoever for the services performed in the above-referenced case.

12
13 9. The time I spent prosecuting this law suit necessarily precluded gainful employment in
14 other fee generating legal matters.

15
16 10. Attached hereto as Exhibit A is a breakdown of the time spent on the case to date. I have
17 made a good faith effort to exclude hours that are excessive, redundant, or otherwise unnecessary.
18 Many brief telephone calls, email communications and internal conferences have not been recorded.
19 Exhibit A was compiled from detailed time records **contemporaneously** logged by the undersigned.

20
21 11. From the beginning of this litigation Plaintiff's counsel recognized that the likely damages
22 would probably be significantly less than the likely attorney fees. Accordingly, on December 19,
23 2007, Plaintiff's counsel wrote to defense counsel in an effort to achieve an early settlement and
24 explained as follows:

25 It may be that no settlement of this case is possible. But if a settlement is possible it
26 would appear self-evident that the probability of settlement is diminished the longer
27 the case is litigated. At some point in the very near future, attorney fees will be the
28 primary element of recovery. Given the nature of Plaintiff's damages, the attorney fees
generated by substantial litigation will exceed Plaintiff's potential recovery and will
make settlement impossible.

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Exhibit C. Plaintiff received no response to this settlement offer. Instead, additional depositions, contested discovery motions, retention of expert witnesses, and a motion for summary judgment multiplied the attorney fees and costs. On September 18, 2008, the case was mediated for a half day with Cliff Freed. As predicted, attorney fees made settlement impossible.

12. My usual billing rates for a civil rights case is \$350 per hour. The rate reflects my special expertise in the subject of civil rights. The rate does not reflect the contingent nature of the case or the delay in payment.

13. My paralegal Kathleen Kindberg has worked for me for approximately 9 years. She is a graduate of Arizona State University. Prior to working for me, Ms. Kindberg worked for both the University of Washington and Washington State Department of Transportation investigating EEO complaints. Ms. Kindberg's logged hours are attached. Exhibit B. The billable rate for Ms. Kindberg's time is \$110 per hour. The utilization of a paralegal in this case significantly diminished the amount of attorney time which otherwise would have been required.

14. My request for reasonable attorney fees and expenses are summarized as follows:

Attorney fees

Jeffrey Needle - 439 hours @ \$350 per hour	\$153,650	
Kathleen Kindberg 148 hours @ \$110 per hour	<u>16,280</u>	
Total Attorney Fees		\$169,930

Expenses

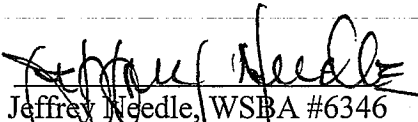
1. Filing fee	200.00	
2. Service of Process - summons and complaint	163.80	
3. Service of Process - Melewski subpoena	70.54	

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4. Witness Fee (Melewski)	50.00
5. Copying - 2,343 copies @ \$.15	351.45
6. Copy - color copies - Sudden Printing	40.52
7. Legal Messenger Costs	35.00
8. Medreco Copying Service (medical records)	874.35
9. Depositions	
a. Bonner	726.80
b. Rick Kieffer	1,011.43
c. John Lievero	819.25
d. Collin Thorpe	204.00
e. Paul Melewski	438.00
f. Nancy Bonner	684.40
g. Karis Miles	274.35
h. Van Blaricom	231.20
i. Thomas Ovens	<u>730.99</u>
Total Depositions	5,120.42
10. Parking at trial	<u>55.00</u>
Total Expenses Pretrial Expenses	6,961.08
Post Trial Transcript Copies - Nancy Bauer	<u>240.00</u>
Total Fees and Expenses	\$177,131.08

Dated in Seattle this 26 day of November, 2008.


 Jeffrey Needle, WSBA #6346
 Attorney for Plaintiff

Declaration of Jeffrey Needle In support of Reasonable Attorney fees and Expenses - 6
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Bonner v. City of Normandy Park

Attorney hours - Jeffrey Needle

DATE	TASK	HOURS
12/6/2006	Initial Interview	1.5
12/6/2006	Review File	2.25
1/17/2007	Admin. Claim for Damages	1
5/29/2007	interview Karis Miles	1.5
5/29/2007	draft complaint	1.5
5/29/2007	research Taser/excessive force	1.75
5/29/2007	jury demand	0.25
8/2/2007	discovery conference	0.5
9/5/2007	research Taser - Law Review Art.	2
9/5/2007	draft discovery request	2.25
9/6/2007	review/modify protective order -	0.5
9/6/2007	Email Bannon	
9/7/2007	review protective order	0.25
9/7/2007	review discovery response	1.5
10/16/2007	work on pltf's disc request	3
10/17/2007	work on pltf's disc request	2.25
10/29/2007	Rule 37 conference-	0.4
10/29/2007	Letter to Bannon	0.5
10/31/2007	research Taser/excessive force	1.5
10/31/2007	research work product	2.25
10/31/2007	Letter to Bannon	1
11/2/2007	Rule 37 Letter to Bannon	1.1
11/8/2007	t/c client	0.7
11/14/2007	review supp. initial disclosure	1.3
11/15/2007	Letter to Bannon re: discovery	
	and plaintiff + Plaintiff's Deposition	0.9
11/19/2007	Motion for Protective Order	1
11/20/2007	work on discovery response	2.5
11/20/2007	t/c client	0.3
11/27/2007	prep client for deposition	5.25
11/29/2007	deposition of client	8
12/1/2007	research Rule 35	3
12/1/2007	Email client	0.25
12/3/2007	prep Kieffer deposition	3
12/4/2007	prep Kieffer deposition	4.75
12/5/2007	Kieffer deposition	3.5
12/5/2007	Meeting with Bonner	0.5
12/12/2007	Motion to Compel Testimony	5.75
	Letter to Bannon	0.25
12/13/2007	prep for Thorpe deposition	2.25
12/14/2007	deposition of Colin Thorpe	1.5
12/19/2007	settlement letter to Bannon	0.3
12/19/2007	Letter to Bannon re: discovery	2.25
	Letter to client re: scheduling	0.25
12/27/2007	Resp. Motion to Compel/Rule 35	2.5
12/28/2007	Resp. Motion to Compel/Rule 35	3

12/31/2007	Resp. Motion to Compel/Rule 35	3
1/2/2008	Resp. Motion to Compel/Rule 35	11
1/3/2008	Resp. Motion to Compel/Rule 26	9
1/6/2008	Resp. Motion to Compel/Rule 26	1.75
1/7/2008	Resp. Motion to Compel/Rule 26	1.5
1/8/2008	Reply/Motion to Compel Test	3
1/9/2008	Reply/Motion to Compel Test	3
1/9/2008	Resp Motion/Rule 35	1.75
1/10/2008	Resp Motion/Rule 35	1.75
2/27/2008	t/c client re: CR 35 exam	0.5
3/25/2008	prep. Lievero deposition	3.75
3/26/2008	prep. Lievero deposition	2.25
3/26/2008	Lievero deposition	2.75
4/16/2008	prep Melewski dep	3.25
4/17/2008	prep Melewski dep	3.5
	review Dr. Hamm report	2.25
	t/c client	0.5
4/18/2008	Melewski deposition	1.5
4/18/2008	meeting with client	0.5
4/23/2008	t/c Van Blaricom	0.25
5/2/2008	review Van Blaricom report	0.25
6/4/2008	t/c Nancy Bonner	0.25
	review N. Bonner statement	0.25
	prep Van Blaricom deposition	1.5
6/5/2008	Van Blaricom deposition	1.5
	Discovery conference - Bannon	0.25
6/9/2008	Interview Nancy Bonner	1
	interview Karis Miles	1
6/10/2008	Deposition Nancy Bonner	5.5
	Deposition of Karis Miles	1.75
6/11/2008	Deposition of Karis Miles	2.75
6/17/2008	prep. Ovens deposition (expert)	4.25
6/18/2008	prep. Ovens deposition (expert)	2.25
6/19/2008	Ovens deposition	2.5
6/25/2008	prep. Dr. Olson deposition	1.25
6/29/2008	prep. Dr. Gerard deposition	0.5
6/30/2008	Olson deposition	2.75
6/30/2008	Gerard deposition	1.25
7/11/2008	review MSJ	2.5
7/18/2008	work SJ response	4.5
7/19/2008	work SJ response	4.5
7/20/2008	work SJ response	3
7/21/2008	work SJ response	5
7/22/2008	work SJ response	5
7/23/2008	work SJ response	11
7/24/2008	work SJ response	11.5
7/25/2008	work SJ response	9
7/26/2008	work SJ response	5.75
7/27/2008	work SJ response	4.25
7/28/2008	work SJ response	4
9/5/2008	t/c client re: mediation	0.25
	t/c Bannon	0.25

9/9/2008	mediation memo	5.25
9/11/2008	tc client re: mediation	0.25
	mediation memo	2
9/17/2008	t/c client re: mediation	0.5
9/18/2008	mediation	4.5
	t/c mediator	0.25
9/24/2008	work on pretrial statement	3
9/29/2008	motion in limine	3
10/1/2008	motion in limine	3.5
10/2/2008	motion in limine	5
10/4/2008	review SJ order	0.5
10/6/2008	motion in limine	4.75
10/8/2008	work on jury instructions	4
10/13/2008	work on resp to motion in limine	6.75
10/15/2008	reply/motion in limine	5
10/20/2008	work on pretrial order	3
	meet with Bannon - pretrial order	1.75
	revise pretrial order	1
10/22/2008	work deposition designation	5
	prep. Lievero cross exam	2.75
10/23/2008	work on jury instructions	3.75
10/26/2008	work on ji, trial brief, voir dire	6.25
10/27/2008	work on ji, trial brief, voir dire	3.25
10/28/2008	work on Lievero, Kieffer cross	6
10/29/2008	status conference, travel	2.75
	work on jury instructions	3.75
	Lievero deposition index - cross	3.25
10/30/2008	prep client for direct	4.5
	prep N Bonner for direct	3.5
10/31/2008	prep Karis Miles for direct	2.25
	work on Kieffer cross	3
	work on opening	2.25
11/1/2008	work on Kieffer cross	2.5
	prep van Blaricom direct	2.25
	Melewski dep index - cross	3
11/2/2008	Opening statement - prep	2
	jury selection	1.25
	organize trial materials	3
	t/c client	0.5
11/3/2008	trial	6.5
	prep over lunch	1
	prep Colin Thorpe cross	2
	t/c client	0.75
	t/c client	0.25
	t/c Van Blaricom	0.25
11/4/2008	trial prep	1
	trial	6.5
	trial prep - over lunch	1
	trial prep - N Bonner/Thorpe	3
11/5/2008	trial prep	1
	trial	6.5
	trial prep - over lunch -Melewski	1.25

	trial prep - Ovens	3.5
11/6/2008	trial prep - Kieffer/Thorp	1.25
	trial	6.5
	trial prep - over lunch	1
11/6/2008	trail prep - Hamm, Ovens, Lievero	4
11/7/2008	trial prep - Ovens, Hamm	1
	trial	4.25
	trial prep - over lunch	1
11/8/2008	work on closing	3.75
11/9/2008	work on closing	4
11/10/2008	closing arguments	3
11/10/2008	await verdict at courthouse	4.25
11/12/2008	jury question	1
	jury question	1
11/13/2008	jury verdict	1
11/14/2008	Work on Fee Petition	4
	t/c Fred Diamondstone re decl.	0.5
11/14/2008	Declar. JN in support of fees	0.25
11/17/2008	t/c client	0.5
11/17/2008	Declar. JN in support of fees	1.75
11/20/2008	tc Lem Howell	0.5
TOTAL HOURS:		439.5

Bonner v. City of Normandy Park

Paralegal Hours - Kathleen Kindberg

DATE	TASK	TIME
1/17/2007	claim for damages/draft/serve	2
5/30/2007	draft complaint	2
6/5/2007	complaint and summons	1
7/19/2007	Joint Status Report	0.5
8/9/2007	initial disclosures	2
8/16/2007	Joint Status Report	0.5
9/6/2007	draft discovery	2
9/8/2007	draft discovery	0.5
9/20/2007	Respond to Def. Discovery	0.5
10/3/2007	Respond to Def. Discovery	2
10/3/2007	privilege log	0.5
10/5/2007	Respond to Def. Discovery	2
11/9/2007	def second discovery	1
11/19/2007	def second discovery	2
12/13/2007	assist motions to compel/file	2.5
12/7/2007	attend Lievero deposition	1
12/19/2007	attend Thorpe deposition	1.5
3/26/2008	attend Lievero deposition	2
4/17/2008	attend Melewski deposition	1.5
7/21/2008	locate/interview potential witness	2
7/22/2008	assist response MSJ	3
7/23/2008	assist response MSJ	2
7/25/2008	assist response MSJ	3
9/25/2008	pretrial statement	2
9/26/2008	pretrial statement	2
9/30/2008	trial exhibits - plaintiff	2
10/6/2008	motion in limine - file	2
10/7/2008	serve sealed exhibits - Bannon	1
10/21/2008	pretrial order	7
10/22/2008	pretrial order	5
10/23/2008	pretrial prep - trial subpoenas	5
10/24/2008	jury instructions + dep excerpts	4
10/27/2008	pretrial prep - jury instructions	8
10/28/2008	pretrial - dep excerpts + jury inst	9
10/29/2008	pretrial prep + pretrial conf	8
10/30/2008	trial notebooks/jury instructions	9
10/31/2008	trial notebooks	5
11/2/2008	electronic copy jury instructions	5
	trial prep	
11/3/2008	Bonner trial	6.5
	trial prep	1
11/4/2008	Bonner trial	6.5
11/5/2008	Bonner trial	6.5
11/6/2008	Bonner trial	6.5
11/7/2008	Bonner trial	5
11/10/2008	Bonner trial	5

TOTAL PARALEGAL HOURS:

148

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Jeffrey L. Needle
Kathleen Kindberg
Legal Assistant

**Privileged and Confidential
For Settlement Only**

December 19, 2007

Fax (206) 223-9423

Brennda Bannon
Keating, Bucklin & McCormack, Inc.,
800 Fifth Ave., Suite 4141
Seattle, Washington 98104

Re: Bonner v. Normandy Park

Dear Ms. Bannon:

Please consider this a letter an offer of settlement in the amount of [REDACTED] including all attorney fees and costs.

As you know, Mr. Bonner is not making a wage claim in this case. He claims garden variety emotional distress damages associated with being tased, physically abused and arrested by Detective Lievero. He claims emotional distress damages associated with being forced to stand trial, and the reasonable attorney fees required to defend the criminal charges. Mr. Bonner claims a violation of state common law and a violation of his constitutional rights pursuant to 42 U.S.C. Section 1983. Under Section 1983, Mr. Bonner may recover reasonable attorney fees and punitive damages against Detective Lievero.

Thus far in the litigation, I have taken two depositions and plan at least two more, the deposition of Detective Lievero and Officer Melewski. You have taken Plaintiff's deposition, and have stated an intention to bring a motion to compel discovery to which I will be required to respond. It may be that no settlement of this case is possible. But if a settlement is possible it would appear self-evident that the probability of settlement is diminished the longer the case is litigated. At some point in the very near future, attorney fees will be the primary element of recovery. Given the nature of Plaintiff's damages, the attorney fees generated by substantial litigation will exceed Plaintiff's potential recovery will make settlement impossible.

Accordingly, absent compelling circumstances this offer of settlement will expire January 4, 2008.

EXHIBIT C

Letter to Bannon
December 19, 2007
Page two

Very truly yours,

Jeffrey Needle

JLN:jn